

REMARKS

Reconsideration and allowance of the application are respectfully requested in light of the foregoing amendments and the following remarks.

Claims 45-86 are pending in the application. Claims 85-86 have been withdrawn from consideration. Independent Claim 45 is herein amended to incorporate the salient features of Claim 46: "...wherein step (c) is performed at a temperature of from about 15 to 30°C". Accordingly, Claim 46 is hereby canceled. Claim 53 is further amended to recite proper dependency from Claim 45.

The specification has been amended where suggested by the Examiner to correct the misspellings and typographical errors.

Entry of the foregoing amendments is respectfully requested.

Claims 45-46, 48, 50 and 52 were rejected under 35 U.S.C. §102(e) for alleged anticipation in view of Nyberg et al., U.S. Patent No. 5,677,472. This rejection is respectfully traversed for the following reasons.

Nyberg et al. relates to a method for extracting sphingomyelin from a mixture of lipids. In other words, the whole premise of Nyberg et al. is to separate "*mainly* sphingomyelin" (emphasis added; col. 6, line 16) from a group of other phospholipids. The goal is to get as much sphingomyelin out as possible, while completely minimizing the presence of the other lipids. According to Nyberg et al., if one wants to precipitate any of the remaining phospholipids, "i.e. phosphatidylethanolamine and phosphatidylcholine, the temperature of the remaining solution is lowered" (col. 5, lines 60-62) "to about 0° - 5° C" (col. 6, line 19).

Even the sole Example 1 of Nyberg et al. bears out this premise. The patentees start with a 14:14:10 ratio blend of phosphatidylethanolamine (PE), phosphatidylcholine (PC), and sphingomyelin, respectively. After mixing in a solvent, and then precipitating the mixture, there is obtained 309 grams of precipitate that is 60% sphingomyelin, 3% PE, and 3% PC. These percentages are clearly not similar to the starting ratio of these components. In fact, in order to obtain any more PE and PC out of solution, it is necessary to conduct a further precipitation reaction at a greatly reduced temperature of 5° C.

In contrast, the present invention is directed to a method for preparing a solid phospholipid *blend* "wherein the relative ratio of phospholipids...corresponds to [the] predetermined relative ratio in the [starting] non-aqueous solution" containing those lipids. According to the present applicants, the goal was to obtain a precipitated phospholipid blend in which the relative amounts of lipid in the final block corresponded to the amounts present in the starting solution. Thus, the present applicants have not recited a method wherein one phospholipid is extracted or precipitated at the expense of the others.

Since Nyberg et al. does not recite each and other feature of the presently claimed invention, then this reference can not be held to anticipate the present claims. Withdrawal of this rejection is respectfully urged.

Claims 45, 47, 49, 51, 53-84 were rejected under 35 U.S.C. §103(a) for alleged obviousness over Nyberg et al. above, in view of Fischer et al. (U.S. Patent No. 5,840,661), Unger et al. (U.S. Patent No. 5,585,112) and Senior et al. (Biochimica et Biophysica Acta, 1991, 1062, pp. 77-82). This rejection is also respectfully traversed for the following reasons.

The shortcomings of Nyberg et al. are discussed above. This reference fails to teach or even suggest how to precipitate a solid blend of phospholipids in which the relative ratio of the lipids corresponds to that contained in the starting solution. This important defect is not remedied by any of the three cited secondary references of Fisher et al., Unger et al. or the journal article, either alone or in combination. For example, Fischer et al.'s discussion of solvents fails to address the core issue of preserving the phospholipids in the final precipitate. Similarly, Unger et al.'s discussion for making and sterilizing a phospholipid also begs the primary issue. Finally, Senior et al.'s discussion regarding DPPE-PEG 5000 would not have aided the skilled artisan in overcoming the primary teachings of Nyberg et al. to separate as much of one phospholipid from a group of lipids.

Based on the foregoing, it is respectfully submitted that the combination of Nyberg et al. and the cited secondary references does not render obvious the presently claimed invention. For these reasons, it is further respectfully urged that these rejections be withdrawn.

The application is believed to be in proper condition for allowance, and prompt, favorable action thereon is earnestly solicited. Should Examiner Huynh feel that any other point requires consideration, then he is cordially invited to contact the undersigned.

Respectfully submitted,

Bristol-Myers Squibb Company
Patent Department
P.O. Box 4000
Princeton, NJ 08543-4000

/john f levis/
John F. Lewis
Attorney for Applicants
Reg. No. 34,210
Phone: 203-677-3782
Date: July 11, 2007